

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARCO ANTONIO PEREZ PEREZ, et al., :

Plaintiffs, :

-v.- :

ESCOBAR CONSTRUCTION, INC., et al., :

Defendants. :

-----X
GABRIEL W. GORENSTEIN, United States Magistrate Judge

The Court has examined the proposed notice to the collective and found it unnecessarily confusing in a number of places. The approved notice is attached. If the parties wish to make additional changes, they are free to propose them to the Court.

SO ORDERED.

Dated: June 17, 2021
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MARCO ANTONIO PEREZ PEREZ, and
JOSE EDUARDO SANCHEZ ARIAS,
*on their own behalf and on behalf of others similarly
situated*

Plaintiffs

v.

ESCOBAR CONSTRUCTION, INC.;
NATIONS CONSTRUCTION, INC.;
JRS SERVICES, LLC;
JHONY A ESCOBAR,
ELIAS O. PALACIOS

Case No. 20-cv-08010

a/k/a Elias Escobar,
NATALIE PALACIOS,
JENNY CAROLINA ALVAREZ,
LUIS ENRIQUE MONZON,

Defendants.
-----X

THIS IS AN IMPORTANT NOTICE ADVISING YOU OF YOUR RIGHTS

This notice is for current and former construction workers, painters, laborers, finishers, and supervisors who worked at any time from December 29, 2016 at **worksites in Ithaca, New York, or Binghamton, New York** to the present for any of the following three companies:

(1) ESCOBAR CONSTRUCTION, INC.,

located at 7621 Crawfordsville Road Indianapolis, IN 46214

(2) NATIONS CONSTRUCTION, INC.,

located at 6690 Dunsdin Drive, Plainfield, IN, 46168, USA;

(3) JRS SERVICES, LLC

located at 2953 Tansel Road, Clermont, IN 46234 (hereinafter collectively “Defendants”)

This notice tells you about certain rights you may have. Two workers, Marco Antonio Perez Perez and Jose Eduardo Sanchez Arias (called “plaintiffs”) brought a lawsuit against the companies (called “defendants”). The lawsuit seeks money allegedly owed for unpaid wages, including minimum wage and overtime wages. Defendants deny they have improperly paid any employees. They say that they have complied with the law and that Plaintiffs were independent contractors, not employees.

A court has decided that other construction workers, painters, laborers, finishers, and supervisors who have worked for defendants at their worksites in Binghamton, New York and/or Ithaca, New York since December 29, 2016, should be notified of this suit to see if they wish to join it. The United States District Court for the Southern District of New York has approved this

Notice. However, the Court has not decided whether this lawsuit will be successful. In other words, it has not decided whether you are owed any money. Also, the Court is not giving any advice on whether you should or should not join the lawsuit.

You may join the lawsuit if you worked for Defendants at any time from December 29, 2016 to the present at worksites in Ithaca, New York, or Binghamton, New York and were not paid minimum wage for all hours worked and/or were not paid overtime for all hours worked over 40 in any given workweek.

Federal law prohibits Defendants from retaliating against you or discriminating against you if you wish to join this lawsuit.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
ASK TO BE INCLUDED	If you wish to be included in the lawsuit, you must complete the form at the end of this Notice.
DO NOTHING	If you do nothing, you will not be part of the lawsuit. This means that if the lawsuit is successful, you will not collect any money from it.

Your options are explained in this notice. To ask to be included in this lawsuit, you must act before [60 days from date notice is sent out].

1. Why did I get this notice?

You are getting this notice because Defendants' records show that you work or worked for Defendants at some time from December 29, 2016 through the present at worksites in Ithaca, New York, or Binghamton, New York.

2. What is this lawsuit about?

This lawsuit is about whether the Defendants properly paid their employees in accordance with the federal Fair Labor Standards Act. In the portion of the lawsuit brought under the Fair Labor Standards Act, the lawsuit alleges, among other things, that Defendants (i) failed to pay employees the full minimum wage for all hour worked and (ii) failed to pay overtime for all hours worked over 40 in any given workweek.

Defendants deny all claims against them and maintain that they have complied with the FLSA, and that Plaintiffs were independent contractors rather than employees.

3. What damages is the lawsuit seeking?

The lawsuit is seeking to recover, among other things, unpaid minimum wages, unpaid overtime pay, and “liquidated damages,” which double the amount of wages owed. The lawsuit is also seeking costs and attorneys’ fees.

4. What happens if I join the lawsuit?

If you choose to join this lawsuit, you will be bound by any ruling, settlement or judgment, whether favorable or unfavorable. You will also share in any money obtained from a settlement or a favorable verdict.

While this lawsuit is pending, as part of the discovery process, you may be asked to provide documents or information relating to your employment with Defendants, which may include responding to written questions or answering questions in person under oath, either before or at trial. For this reason, if you join the lawsuit, you should preserve all documents relating to the Defendants currently in your possession. You also may be asked to give testimony under oath before trial and/or asked to testify at a trial in the Southern District of New York Courthouse.

5. Can Defendants and/or my current employer retaliate or fire me if I join the lawsuit?

No. It is a violation of federal law for Defendants to fire, discipline, or in any manner discriminate or retaliate against you for taking part in this lawsuit.

6. Can I participate in this lawsuit, even though, due to my immigration status, I did not work or am not working for Defendants legally?

Yes. Your immigration status does not affect your ability to participate in or obtain money from the lawsuit.

7. How do I ask the Court to include me in the lawsuit?

If you want to be included, you must fill in and return the enclosed form called the “Plaintiff Consent Form.” **If you choose to join the lawsuit, it is extremely important that you read, sign, and promptly return the Plaintiff Consent Form.**

An addressed and postage paid envelope is enclosed for your convenience. Should the enclosed envelope be lost or misplaced, the Plaintiff Consent Form must be sent to the following address:

TROY LAW PLLC
41-25 Kissena Boulevard, Suite 103
Flushing, NY 11355

RE: *PEREZ PEREZ, et al. v. ESCOBAR CONSTRUCTION, INC et al.*

Your signed and filled-out Plaintiff Consent Form must be postmarked, faxed, or emailed by (60 days from mailing). If your signed and filled-out Plaintiff Consent Form is not postmarked, faxed, or emailed by (60 days from mailing), you may not be able to participate in the federal law portion of this lawsuit or obtain any money awarded. You can also fax the Plaintiff Consent Form to (718) 762-1342 or scan and email it to troylaw@troypllc.com.

8. Do I have an attorney in this lawsuit?

If you choose to join this lawsuit, unless you choose to retain a different attorney, you will be represented by **Troy Law, PLLC**, 41-25 Kissena Boulevard, Suite 103, Flushing, New York 11355, (718) 762-1324.

9. How will Troy Law, PLLC be paid?

If you choose to be represented by Troy Law, PLLC, their costs and fees will be paid out of any settlement or money judgment Plaintiffs receive against Defendants. If there is no settlement or money judgment, Troy Law, PLLC will not receive any fee. You will not be required to pay anything for services provided by Troy Law, PLLC.

Further information about this Notice, the deadline for joining the lawsuit, the form provided or answers to other questions concerning this lawsuit may be obtained by contacting Troy Law, PLLC at (718) 762-1324. Communications with Troy Law, PLLC for the purpose of obtaining legal advice are presumed to be **privileged and confidential** and will not be disclosed to anyone without your permission.

If you select an attorney other than Troy Law, PLLC to represent you in this action, your attorney will make arrangements to join the lawsuit.

10. Should I get my own attorney?

This is a choice that is entirely up to you. You have the right to hire any attorney of your choice to represent you in this matter. However, if you choose not to be represented by Troy Law, PLLC, you should confer with your attorney regarding their costs and fees.

11. What happens if I do nothing at all?

If you do nothing, you will not be part of the lawsuit. This means that if the lawsuit is successful, you will not collect any money from it. It also means you will not be bound by or affected by any court decisions in the lawsuit.

12. Who authorized this Notice?

This notice and its contents have been authorized by a federal judge for the United States District Court for the SOUTHERN DISTRICT OF NEW YORK. The Court has not yet ruled on whether Plaintiffs' claims or Defendants' defenses have any merit. In other words, it has not decided whether you are owed any money. Also, the Court is not giving any advice on whether you should or should not join the lawsuit.

Please do not write or call the Court about this notice.

PLAINTIFF CONSENT FORM

IF YOU RECEIVED THIS FORM AND WANT TO JOIN THIS LAWSUIT, PLEASE
COMPLETE THESE TWO STEPS:

- A. COMPLETE AND SIGN THIS PLAINTIFF CONSENT FORM; AND
- B. USE THE ENCLOSED ENVELOPE TO RETURN THIS FORM TO THE ADDRESS BELOW NOT LATER THAN [60 days from mailing of notice].

I consent to be a party plaintiff in the lawsuit *PEREZ PEREZ, et al. v. ESCOBAR CONSTRUCTION, INC, et al.*, U.S. District Court, SOUTHERN DISTRICT OF NEW YORK, Civil Action No. 20-cv-08010 in order to seek redress for violations of the Fair Labor Standards Act, pursuant to 29 U.S.C. § 216(b).

By signing and returning this consent form, I hereby designate Plaintiffs and their counsel Troy Law, PLLC ("the Firm") to represent me and make decisions on my behalf concerning the litigation and any settlement. I understand that reasonable costs expended on my behalf will be deducted from any settlement or judgment amount on a pro rata basis among all other plaintiffs. I understand that the Firm will petition the Court for reasonable attorneys' fees and expenses should this case settle or a money judgment is received and will receive a proportion of any such gross settlement or judgment amount. I agree to be bound by any adjudication of this action by a court, whether it is favorable or unfavorable.

<<Name>>
Name (printed)

Signature

Date

<<Address>>
Street Address

<<City and Zip>>		
City	State	ZIP

<<Phone Number>>
Best Telephone Number(s)

<<Email>>
Email

<<Location>>

Work Location(s)

<<Start Date>>

Employment Start Date

<<End Date>>

Employment End Date

Mail to:

RE: *PEREZ PEREZ, et al. v. ESCOBAR CONSTRUCTION, INC et al.*
TROY LAW, PLLC,
41-25 KISSENA BOULEVARD, SUITE 103
FLUSHING, NY 11355

YOU CAN ALSO FAX THE CONSENT TO JOIN FORM TO (718) 762-1342
OR SCAN AND EMAIL IT TO: troylaw@troypllc.com